

_____ BILL NO. _____

INTRODUCED BY _____

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING CANDIDATES FOR ELECTION TO THE LEGISLATURE WITH THE ALTERNATIVE OF A PUBLICLY FINANCED ELECTION CAMPAIGN AND PROVIDING FOR PUBLIC FUNDING THROUGH THE OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES; PROVIDING DEFINITIONS; PROVIDING REQUIREMENTS FOR RECEIPT OF PUBLIC MONEY; REQUIRING CONTINUING COMPLIANCE BY CANDIDATES; SPECIFYING THE TIMING AND AMOUNT OF PAYMENTS TO CANDIDATES; SPECIFYING PURPOSES FOR WHICH PAYMENTS OF PUBLIC MONEY TO CANDIDATES MAY BE SPENT; REQUIRING DISCLOSURE OF CERTAIN ELECTION CAMPAIGN SPENDING; CREATING THE PUBLIC MONEY ELECTION CAMPAIGN FUND AND SPECIFYING THE CONTENT AND USE OF THE FUND; PROVIDING FOR ADMINISTRATION OF PAYMENTS FROM THE PUBLIC MONEY FUND TO CERTAIN CANDIDATES; CREATING A PRIVATE RIGHT OF ACTION; REQUIRING RULEMAKING; CREATING OFFENSES AND PROVIDING PENALTIES; AMENDING SECTION 13-1-101, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 22] may be cited as the "Public Financing of Legislative Election Campaigns Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 22] is to ensure the fairness of democratic elections in Montana and to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections. Those detrimental effects are especially problematic in elections of the legislature because impartiality is uniquely important to the integrity and credibility of the legislature. Accordingly, [sections 1 through 22] establish an alternative source of campaign financing for candidates who demonstrate public support and voluntarily accept strict fundraising and spending limits. Financing under [sections 1 through 22] is available to candidates for the state house of representatives and state senate in elections to be held in 2008 and succeeding years.

1 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 22], unless the context indicates

2 otherwise, the following definitions apply:

3 (1) "Candidate" means an individual who has filed a declaration for nomination, acceptance of
4 nomination, or appointment as a candidate for election to the senate or house of representatives.

5 (2) "Election" means an election, as defined in 13-1-101, of an individual to the legislature.

6 (3) "Election cycle" means the period of time beginning the day after the general election until the day
7 of the next general election.

8 (4) "Excess campaign contribution" means the amount of money received by a nonparticipating
9 candidate as a campaign contribution in excess of the public money funding available to a participating candidate
10 running for the same office.

11 (5) "General election campaign period" means the period of time beginning on the day after the primary
12 election and ending on the day of the general election.

13 (6) "Mass mailing" means a mailing of 200 or more identical or nearly identical pieces of mail sent by a
14 candidate or an elected official to the voters, residents, or post-office boxholders within the jurisdiction that a
15 candidate seeks to represent. A mass mailing does not include:

16 (a) a mailing made in direct response to communications from individuals or groups to whom the matter
17 is mailed;

18 (b) a mailing to federal, state, or local government officials; or

19 (c) releases to the communications media.

20 (7) "Nonparticipating candidate" means a candidate who is on the ballot but has not been certified by
21 the commissioner pursuant to [section 10] as a participating candidate.

22 (8) "Participating candidate" means a candidate who has been certified as a participating candidate by
23 the commissioner pursuant to [section 10] and who is eligible to receive public money funding.

24 (9) "Primary election campaign period" means the period beginning 90 days before the primary election
25 and ending on the day of the primary election.

26 (10) "Public money election campaign fund", "public money fund", or "fund" means the fund created in
27 [section 15].

28 (11) "Public money funding" means money paid or to be paid by the commissioner from the public money
29 fund to a participating candidate.

30 (12) "Public money qualifying period" means the period during which candidates are permitted to collect

1 qualifying contributions in order to qualify for public money funding. The period begins 120 days before the
2 beginning of the primary election campaign period and ends 30 days before the primary election.

3 (13) "Qualifying contribution" means a contribution meeting the requirements of [section 4(1)] given to
4 a candidate for election.

5
6 **NEW SECTION. Section 4. Requirements for qualifying contributions.** (1) To be considered a
7 qualifying contribution, a contribution:

8 (a) may be made only by a registered voter who resides within the legislative district for which the
9 candidate files;

10 (b) must be \$5;

11 (c) must be received during the public money qualifying period by a candidate seeking to become a
12 participating candidate;

13 (d) may be made only by cash, check, or money order;

14 (e) must be acknowledged by a receipt given to the contributor, with a copy of the receipt kept by the
15 candidate and a copy sent to the commissioner. The receipt must include the contributor's signature, printed
16 name, home address, and telephone number and the name of the candidate on whose behalf the contribution
17 is made. The receipt must indicate, by the contributor's signature, that:

18 (i) the contributor fully understands that the purpose of the contribution is to help the candidate qualify
19 for public money funding; and

20 (ii) the contribution is made without coercion or reimbursement by volunteers who do not receive
21 reimbursement.

22 (2) The receipt required by subsection (1)(e) and the contribution must be submitted to the commissioner
23 according to a schedule and procedure to be determined by the commissioner. A contribution submitted as a
24 qualifying contribution that does not include a signed and completed receipt may not be counted as a qualifying
25 contribution.

26
27 **NEW SECTION. Section 5. Eligibility of candidate for public money funding.** (1) A candidate
28 qualifies as a participating candidate for the primary election campaign period if the candidate:

29 (a) receives at least 150 qualifying contributions for a candidate for the state senate or 75 qualifying
30 contributions for a candidate for the state house of representatives before the close of the public money qualifying

1 period; and

2 (b) files a declaration with the commissioner that the candidate has complied and will comply with all of
3 the requirements of [sections 1 through 22], including the requirement that during the public money qualifying
4 period, the candidate has not and will not accept or spend private contributions from any source other than public
5 money qualifying contributions. However, during the qualifying period a candidate may lend up to \$2,500 to the
6 candidate's campaign to defray the expenses of collecting qualifying contributions. Loans must be repaid from
7 any qualifying contributions before the balance is deposited in the fund established in [section 15], unless [section
8 6] applies.

9 (2) A candidate qualifies as a participating candidate for the general election campaign period if the
10 candidate:

11 (a) meets all of the applicable requirements and files a declaration with the commissioner that the
12 candidate has fulfilled and will fulfill all of the requirements of a participating candidate, as provided in [sections
13 1 through 22], and the rules of the commissioner; and

14 (b) qualified for the general election as a participating candidate during the primary election campaign
15 period.
16

17 **NEW SECTION. Section 6. Eligibility rule for transition from current election cycle.** During the
18 election cycle in effect on [the effective date of this section], a candidate may be certified as a participating
19 candidate notwithstanding the acceptance of contributions or making of expenditures from private funds before
20 that date that would, except for this section, disqualify the candidate as a participating candidate if any private
21 funds accepted but not expended before [the effective date of this section] are returned to the contributor or are
22 submitted to the commissioner for deposit in the public money fund.
23

24 **NEW SECTION. Section 7. Continuing obligation to comply.** A participating candidate who accepts
25 public money funding during the primary election campaign period shall comply with the requirements of [sections
26 1 through 22] through the general election campaign period regardless of whether the participating candidate
27 accepts public money funding during the general election campaign period.
28

29 **NEW SECTION. Section 8. Contributions and expenditures.** (1) A participating candidate may not,
30 during the primary and general election campaign periods, accept a contribution from a source other than the

1 public money fund.

2 (2) A participating candidate who receives a qualifying contribution that is not from the person listed on
3 the receipt required by [section 4] shall pay the qualifying contribution to the commissioner and is liable for other
4 penalties provided by [sections 1 through 22]. The commissioner shall deposit the qualifying contribution in the
5 public money election campaign fund.

6 (3) During the primary and general election campaign periods, a participating candidate may pay the
7 participating candidate's campaign expenditures, except petty cash expenditures paid from a fund created in
8 accordance with 13-37-215, by means of the public money debit card issued pursuant to [section 17].

9 (4) An individual applying for certification as a participating candidate shall furnish complete campaign
10 records, including all records of qualifying contributions, to the commissioner at the time of application.
11 Participating candidates shall furnish any of those records to the commissioner upon the request of the
12 commissioner. Individuals applying for certification and participating candidates shall cooperate with the
13 commissioner in the commissioner's performance of an audit or other investigation.

14
15 **NEW SECTION. Section 9. Contribution and use of personal funds by candidate.** The personal
16 funds of a candidate seeking certification as a participating candidate may not be used to meet the qualifying
17 contribution requirements of [section 4] except for one \$5 contribution from the candidate and one \$5 contribution
18 from the candidate's spouse if the candidate's spouse is a registered voter who resides in the state.

19
20 **NEW SECTION. Section 10. Application for certification -- certification by commissioner -- judicial**
21 **review.** (1) A candidate's application for certification as a participating candidate must be signed under oath by
22 the candidate and the candidate's campaign treasurer.

23 (2) An application for certification as a participating candidate must be submitted to the commissioner
24 and must include:

25 (a) evidence of the number of qualifying contributions received by the candidate; and
26 (b) a declaration that the candidate has complied and will comply with all the requirements for eligibility
27 for certification as a participating candidate.

28 (3) No more than 5 working days after a candidate applies for public money funding, the commissioner
29 shall determine whether the candidate is or is not eligible to receive public money funding. The commissioner's
30 determination must be based on the documentation provided by the candidate applying for public money funding.

1 If the commissioner determines that the candidate is eligible, the commissioner shall certify the candidate as a
2 participating candidate and make money from the public money fund available to the participating candidate in
3 accordance with [section 11]. If the commissioner determines that the candidate is not eligible to receive public
4 money funding, the commissioner shall inform the candidate in writing of that fact.

5 (4) The commissioner shall revoke the certification of a participating candidate who the commissioner
6 later determines was not eligible for certification because of a violation of [sections 1 through 22] or the rules of
7 the commissioner. The commissioner's determination must be based upon a finding made in a contested case
8 proceeding held pursuant to Title 2, chapter 4, part 6. If a participating candidate's certification of eligibility is
9 revoked, the candidate shall repay to the commissioner all public money funding received by the candidate.
10 Money repaid to the commissioner must be deposited in the public money fund.

11 (5) A decision by the commissioner as to whether to certify a candidate as a participating candidate is
12 subject to judicial review in the manner provided by Title 2, chapter 4, part 7.

13
14 **NEW SECTION. Section 11. Funding provided to participating candidates -- schedule of**
15 **payments and amounts of public money funding.** (1) A candidate certified as a participating candidate must
16 receive, at the times provided for in subsection (2), public money funding in the amounts provided for in
17 subsection (3). Public money funding may be used by a participating candidate only in the manner and for the
18 purposes provided for in [section 12].

19 (2) The commissioner shall provide public money funding to a participating candidate for a primary
20 election campaign period, in the amount provided in subsection (3), on the day that the commissioner certifies
21 the candidate as a participating candidate. The commissioner shall provide public funding money to a
22 participating candidate for a general election campaign period, in the amount provided in subsection (3), within
23 48 hours after certification of the primary election results.

24 (3) The commissioner shall pay from the public money fund to participating candidates in contested and
25 uncontested primary and general elections for the legislature the average overall amount expended by candidates
26 in corresponding elections in the preceding election, as determined by the commissioner. The calculation in this
27 subsection must be made after each general election.

28 (4) After the first election cycle in which the commissioner provides public money funding to participating
29 candidates, the commissioner shall increase all public money funding to be paid in the following election cycle
30 by an amount equal to the rate of inflation or the cost-of-living increase, whichever is more, between the previous

1 general election and the next general election, as determined by the rules of the commissioner.

2
3 **NEW SECTION. Section 12. Purpose for which public money funding may be used -- return of**
4 **unspent funds.** (1) Public money funding may be used by a participating candidate only to pay for
5 campaign-related expenses incurred in the course of a primary or general election campaign.

6 (2) Public money funding may not be expended in violation of law or for personal, family, or business
7 loans, expenditures, or debts.

8 (3) A participating candidate who does not expend all public money funding received by the participating
9 candidate shall return the unspent portion to the commissioner, who shall deposit the money into the public
10 money election campaign fund.

11
12 **NEW SECTION. Section 13. Disclosure of excess campaign contributions by nonparticipating**
13 **candidates.** (1) If a nonparticipating candidate's total campaign contributions received at any time exceed the
14 amount of public money funding provided to the nonparticipating candidate's participating candidate opponent,
15 the nonparticipating candidate shall declare to the commissioner within 48 hours of receipt every excess
16 campaign contribution, once the total excess contributions exceed \$1,500.

17 (2) The commissioner may make a determination as to whether an excess campaign contribution has
18 been made to a nonparticipating candidate based upon documentation provided by the nonparticipating
19 candidate.

20 (3) Upon receiving an excess campaign contribution declaration from a nonparticipating candidate or
21 making a determination that a nonparticipating candidate has received more in campaign contributions than a
22 participating candidate, the commissioner shall immediately provide additional public money funding to the
23 opposing participating candidate equal to the excess campaign contributions received by the nonparticipating
24 candidate.

25
26 **NEW SECTION. Section 14. Definition of independent expenditure.** As used in this section, unless
27 the context indicates otherwise, the following definitions apply:

28 (1) "Candidate's authorized committee" means a combination of two or more persons that, with the
29 candidate's full knowledge and approval and on behalf of a candidate, organizes to support that candidate or to
30 oppose a different candidate.

1 (2) "Coordination" means a payment made for a communication or anything of value that is given for the
2 purpose of influencing the outcome of an election and that is made by a person:

3 (a) in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to a
4 particular understanding with a candidate, a candidate's authorized committee, or an agent acting on behalf of
5 a candidate or a candidate's authorized committee;

6 (b) for the dissemination, distribution, or republication, in whole or in part, of a broadcast or a written,
7 graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an
8 agent of a candidate or a candidate's authorized committee;

9 (c) based on specific information about the candidate's plans, projects, or needs provided to the person
10 making the payment by the candidate or the candidate's agent who provides the information with a view toward
11 having the payment made;

12 (d) if, in the same election cycle in which the payment is made, the person making the payment is serving
13 or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an
14 executive or policymaking position;

15 (e) if the person making the payment has served in any formal policy or advisory position with the
16 candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign
17 relating to the candidate's pursuit of election or nomination for election in the same election cycle as the election
18 cycle in which the payment is made; or

19 (f) if the person making the payment retains the professional services of an individual or person who,
20 in a nonministerial capacity, has provided or is providing campaign-related services in the same election cycle
21 to a candidate who is pursuing the same nomination or election as any of the candidates to whom the
22 communication refers.

23 (3) (a) "Express advocacy" means a communication that is made through a broadcast medium,
24 newspaper, magazine, billboard, direct mail, or similar type of general public communication or political
25 advertising that:

26 (i) advocates the election or defeat of a clearly identified candidate, including any communication that
27 contains a phrase such as "vote for", "reelect", "support", "cast your ballot for", "(name of candidate) for (name
28 of office)", "(name of candidate) in (year)", "vote against", "defeat", "reject", or similar phrases; or

29 (ii) contains campaign slogans or individual words that in context can have no reasonable meaning other
30 than to recommend the election or defeat of one or more clearly identified candidates.

(b) The term does not mean:

(i) a news story, commentary, or editorial by a broadcasting station, newspaper, magazine, or other publication, but only if that entity is not owned by or affiliated with any candidate or candidate's authorized committee; or

(ii) a regularly published newsletter or other communication for which circulation is limited to an organization's members, employees, shareholders, and other affiliated individuals and those who request or purchase the communication.

(4) "Independent expenditure" means an expenditure made by a person other than a candidate or a candidate's authorized committee that:

(a) is made for a communication that contains express advocacy; and

(b) is made without the participation or cooperation of and without coordination with a candidate or candidate's authorized committee.

(5) "Professional services" includes services in support of a candidate's pursuit of election or nomination for election, such as polling, media advice, mass mailing, fundraising, or campaign research.

NEW SECTION. Section 15. Public money election campaign fund created -- nature and purpose of fund. (1) There is an account in the state special revenue fund, established in 17-2-102, to be known as the public money election campaign fund.

(2) Revenue derived from the sources specified in [section 16] must be deposited in the account as provided in that section. Interest or other income earned on the money in the account accrues to the account.

(3) Money in the account may be used by the commissioner only for the administration of [sections 1 through 22], including public money funding payments to participating candidates as provided for in [sections 1 through 22] and payment for any additional administrative costs incurred by the commissioner's office in implementing [sections 1 through 22].

NEW SECTION. Section 16. Sources of revenue. (1) Money appropriated by the legislature for the purposes of [sections 1 through 22] must be deposited in the public money election campaign fund.

(2) Other sources of revenue that must be deposited in the fund include:

(a) qualifying contributions paid by candidates seeking certification as participating candidates pursuant to [section 10] and any qualifying contributions collected by a candidate in excess of the number necessary for

1 certification as a participating candidate;

2 (b) money distributed to a participating candidate who does not remain a candidate until the primary or
3 general election for which the money was paid by the commissioner and the money from the fund that remains
4 unused by a participating candidate following the date of the primary or general election for which that money was
5 paid;

6 (c) fines levied by the commissioner against candidates for violation of [sections 1 through 22];

7 (d) donations to the fund;

8 (e) interest or other income generated by money in the fund; and

9 (f) other sources of revenue determined necessary by the legislature.

10
11 **NEW SECTION. Section 17. Administration and payment of money from fund -- public money**
12 **debit card.** (1) Upon certification of a candidate as a participating candidate pursuant to [section 10], the
13 commissioner shall issue to a participating candidate a line of credit evidenced by a public money debit card. The
14 card must enable a participating candidate to draw upon a line of credit to be paid from the public money fund
15 up to the maximum of the amount for which the card is issued.

16 (2) A participating candidate or other individual authorized by the participating candidate or the
17 participating candidate's campaign treasurer to make or obligate expenditures on behalf of the participating
18 candidate or the participating candidate's campaign may not, except as provided in this section, use any form of
19 payment, including cash, check, or money order, other than the public money debit card to pay for those
20 expenditures or incur obligations for expenditures.

21 (3) Cash amounts of \$100 or less a day may be drawn on the public money debit card and used to pay
22 expenses of no more than \$25 each. Records of all expenditures for which the debit card is used must be
23 maintained and reported to the commissioner at the time and in the manner provided by the rules of the
24 commissioner.

25
26 **NEW SECTION. Section 18. General powers and duties of commissioner.** (1) The powers provided
27 in this section are powers that may be exercised by the commissioner in addition to powers granted by other laws.

28 (2) After every primary or general election, the commissioner may conduct random audits and
29 investigations to ensure compliance with [sections 1 through 22].

30 (3) The subjects of audits and investigations must be selected by the commissioner on the basis of

1 impartial criteria established by the commissioner.

2 (4) The commissioner may seek an injunction under Title 27, chapter 19, if:

3 (a) there is a substantial likelihood that a violation of [sections 1 through 22] or the rules of the
4 commissioner is occurring or is about to occur;

5 (b) the commissioner's failure to act expeditiously will result in irreparable harm to a candidate affected
6 by the violation or potential violation;

7 (c) expeditious action will not cause undue harm or prejudice to the interests of others; and

8 (d) the public interest would be best served by the issuance of an injunction.

9 (5) The commissioner shall refer criminal violations to the attorney general for prosecution.

10
11 **NEW SECTION. Section 19. Private right of action for others -- judicial review of commissioner's**

12 **action.** (1) A person other than the commissioner who believes that a candidate has violated a provision of
13 [sections 1 through 22] has a right of action in the district court in the county in which the person bringing the
14 action resides to enforce the provisions of [sections 1 through 22] or the rules of the commissioner if that person:

15 (a) has previously filed a complaint with the commissioner regarding the same alleged violation; and

16 (b) has not been informed by the commissioner in writing within 45 days of the date of filing the complaint
17 that the commissioner intends to bring a civil action or an administrative action or to refer the matter to the
18 attorney general to resolve the same alleged violation.

19 (2) Except as otherwise provided in this section, a person other than the commissioner who brings an
20 action pursuant to subsection (1) may be awarded only the civil relief awardable to the commissioner if the
21 commissioner had brought the action.

22 (3) A litigant that substantially prevails in a civil action brought pursuant to subsection (1) charging a
23 violation of [sections 1 through 22] or the rules of the commissioner may receive costs as provided by law and
24 reasonable attorney fees from the other party.

25 (4) A person who is aggrieved by the violation of [sections 1 through 22] or the rules of the commissioner
26 may bring an action in the district court for Lewis and Clark County to enforce the provisions of [sections 1
27 through 22] and the rules of the commissioner. The litigant that substantially prevails in the action is entitled to
28 costs as provided by law and to reasonable attorney fees from the other party.

29
30 **NEW SECTION. Section 20. Rulemaking.** (1) The commissioner shall adopt rules implementing

[sections 1 through 22].

(2) The rules must include:

(a) the use of the public money debit card;

(b) a schedule of fines and a procedure for levying fines against persons who violate [sections 1 through 22] or the rules of the commissioner; and

(c) any other matters the commissioner considers necessary to implement [sections 1 through 22].

NEW SECTION. Section 21. Repayment of amounts spent in excess of public money funding. (1)

If a participating candidate spends or obligates more than the public money funding that the participating candidate is paid by the commissioner and if the commissioner determines that the additional amount spent or obligated is not an amount that had or could have reasonably been expected to have a significant impact on the election of that participating candidate, whether or not the participating candidate was elected, then the participating candidate shall repay to the public money fund an amount equal to the excess expenditure or obligation, as follows:

(a) for amounts up to 105% of the permissible amount, the excess expenditures;

(b) for amounts between 105% and 115% of the permissible amount, twice the amount of the excess expenditures; and

(c) for amounts in excess of 115% of the permissible amount, five times the amount of the excess expenditures.

(2) If a participating candidate spends or obligates more than the public money funding that the candidate is given and if the additional amount spent or obligated is determined by the commissioner to be an amount that had or could reasonably have been expected to have a significant impact on the election of that participating candidate, whether or not that participating candidate was elected, then the participating candidate shall repay to the public money fund an amount equal to 10 times the value of the excess expenditure or obligation.

NEW SECTION. Section 22. Offenses -- penalties. (1) A participating candidate may not knowingly:

(a) accept more public money funding than that amount to which the participating candidate is entitled;

(b) spend more public money funding than the participating candidate has received from the commissioner; or

(c) spend public money funding for a purpose other than those purposes allowed by [section 12].

(2) If a violation of subsection (1) involves an amount of public money funding that had or could reasonably have been expected to have a significant impact on the election of that participating candidate, whether or not that participating candidate was elected, the participating candidate may be fined an amount up to \$25,000 or be imprisoned for a term up to 5 years, or both.

(3) A person who provides false information to the commissioner or conceals or withholds information from the commissioner is guilty of an offense and may be fined an amount up to \$5,000 for each violation or be imprisoned for a term up to 5 years, or both.

(4) Fines paid must be deposited in the public money election campaign fund.

Section 23. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, except as provided in [sections 1 through 22] and unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector who voted in the previous federal general election and whose name is on the active list.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means:

(a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee

1 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination
2 or election to any office at any time, whether or not the office for which the individual will seek nomination or
3 election is known when the:

4 (i) solicitation is made;

5 (ii) contribution is received and retained; or

6 (iii) expenditure is made; and

7 (c) an officeholder who is the subject of a recall election.

8 (7) (a) "Contribution" means:

9 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value
10 to influence an election;

11 (ii) a transfer of funds between political committees;

12 (iii) the payment by a person other than a candidate or political committee of compensation for the
13 personal services of another person that are rendered to a candidate or political committee.

14 (b) "Contribution" does not mean:

15 (i) services provided without compensation by individuals volunteering a portion or all of their time on
16 behalf of a candidate or political committee or meals and lodging provided by individuals in their private
17 residences for a candidate or other individual;

18 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any
19 broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

20 (iii) the cost of any communication by any membership organization or corporation to its members or
21 stockholders or employees; or

22 (iv) filing fees paid by the candidate.

23 (8) "Election" means a general, regular, special, or primary election held pursuant to the requirements
24 of state law, regardless of the time or purpose.

25 (9) "Election administrator" means the county clerk and recorder or the individual designated by a county
26 governing body to be responsible for all election administration duties, except that with regard to school elections,
27 the term means the school district clerk.

28 (10) "Elector" means an individual qualified to vote under state law.

29 (11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift
30 of money or anything of value made for the purpose of influencing the results of an election.

1 (b) "Expenditure" does not mean:

2 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

3 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or
4 personal necessities for the candidate and the candidate's family;

5 (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any
6 broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

7 (iv) the cost of any communication by any membership organization or corporation to its members or
8 stockholders or employees.

9 (12) "Federal election" means a general or primary election in which an elector may vote for individuals
10 for the office of president of the United States or for the United States congress.

11 (13) "General election" or "regular election" means an election held for the election of public officers
12 throughout the state at times specified by law, including elections for officers of political subdivisions when the
13 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues
14 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the
15 legislature to the electors at a general election, "general election" means an election held at the time provided
16 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted
17 as a constitutional initiative at a regular election, regular election means an election held at the time provided in
18 13-1-104(1).

19 (14) "Inactive elector" means an individual who failed to vote in the preceding federal general election
20 and whose name was placed on an inactive list pursuant to 13-2-220.

21 (15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

22 (16) "Individual" means a human being.

23 (17) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval
24 or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall
25 questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35 and
26 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary
27 for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes
28 a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

29 (18) "Legally registered elector" means an individual whose application for voter registration was
30 accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in

1 13-15-206.

2 (31) "Voting system" or "system" means any machine, device, technology, or equipment used to
3 automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."

4

5 **NEW SECTION. Section 24. Codification instruction.** [Sections 1 through 22] are intended to be
6 codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [sections
7 1 through 22].

8

9 **NEW SECTION. Section 25. Contingent voidness.** If House Bill No. 2 is passed and approved and
10 does not include an appropriation of at least \$300,000 to implement the provisions of [this act], then [this act] is
11 void.

12

13 **NEW SECTION. Section 26. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
15 the part remains in effect in all valid applications that are severable from the invalid applications.

16

17 **NEW SECTION. Section 27. Effective dates.** (1) Except as provided in subsection (2), [this act] is
18 effective October 1, 2007.

19 (2) [Sections 20 and 24 through 26 and this section] are effective on passage and approval.

20

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